



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Criminal Application (BA) No.223/2025

[Bhimsen V State of Maharashtra]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R.H. Rawlani, Advocate for applicant.
Mrs. S. Kolhe, APP for State.

Coram : Urmila Joshi-Phalke, J.
Date : 28-04-2025.

Heard.

2. The applicant came to be arrested on 05-02-2024 in connection with crime no.0015/2024 registered under Sections 20, 22, 25, 27(A), 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. The applicant is arraigned as an accused on the basis of statement of co-accused Sunil. Informant Battulal Pande who is working as Police Sub Inspector attached to Crime Branch, Nagpur lodged the report at Police Station Bori on 11-01-2024 stated therein that on 11-01-2024 while he was on patrolling duty along with his staff he received secret information that the container bearing registration No.HR-55-S-2346 proceeding from Chandrapur to Nagpur illegally transporting the contraband i.e Ganja. On receipt of said information, he informed the Superintendent of Police and Sub-Divisional Police Officer. The Superintendent of Police has immediately issued the directions to take necessary action and thereafter the panchas as well as photographer and shopkeeper having weighing machine were called along with the gazetted officers. In the presence of gazetted officers

search of the truck was taken and contraband articles weighing 495.600 kg was seized. The notice under Section 50(1) of the NDPS Act was also issued. The search and seizure was made in presence of the gazetted officers and driver and cleaner of the said truck were arrested. On interrogation name of accused no.3 reveals. Accused no.3 Sunil was also arrested and during interrogation with him, the name of the present applicant is revealed as he has supplied the said contraband to the other co-accused. On the basis of the said investigation, the applicant is arraigned as an accused.

4. Heard learned Counsel for the applicant who submitted that except the two statements of the witnesses there is no other material to connect the present applicant. The said statements are also to the extent that some amount was received for the present applicant in their account and they have withdrawn the same and handed over to the present applicant. Except these statements of Santosh and Kailashchandra there is no other material in the form of CDR reports or the confessional statements of the co-accused. Thus, considering the material which is collected by the Investigating Officer the connection between the present applicant and the other co-accused does not reveal. Now investigation is already completed, chargesheet is already filed. As the investigation papers nowhere connect the present applicant with the other co-accused, therefore rigor under Section 37 of the Act will not come into play. In view of that the applicant be released on bail.

5. Learned APP strongly opposed the application and submitted that a huge quantity of 495.600 kg contraband was recovered at the instance of the co-accused. During interrogation the name of the present applicant reveals. The statements of these witnesses connect the present applicant with the alleged offence. In

view of that and in view of the rigor under Section 37 of the Act, the application deserves to be rejected.

6. On hearing both the sides and on perusal of the investigation papers except the statements of two witnesses, there is neither the CDR reports or no any link between the present applicant and the other co-accused. These two statements are also to the extent that only some amount was received in the account of witness Santosh and this amount he has withdrawn and handed over to the present applicant. Thus, these statements at this stage are not sufficient to connect the present applicant with the alleged offence. Except that there is no other material thus rigor under Section 37 of the Act did not apply. The applicant has made out a case for grant of bail. Accordingly, I proceed to pass the following order.

7. The application is allowed.

8. The applicant shall be released on bail in connection with Crime No. 0015/2024 registered under Sections 20, 22, 25, 27(A), 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 on executing PR Bond of Rs. 1 Lakh with one surety of like amount.

9. The applicant shall attend the concerned Police Station once in a month on 15th of every month and the police officer of the said Police Station shall record his presence.

10. The applicant shall attend the local Police Station at Semiliguda, District Koraput (Odisha) once in a month on 20th of every month and the police officer from the said Police Station shall record his presence.

11. The applicant shall also furnish local surety for the satisfaction of the concerned Court.

12. The applicant shall attend the proceeding before the Special Court without seeking any exemption unless there are exceptional circumstances.

13. The applicant shall also furnish the names of his two relatives along with their address proof for the satisfaction of the Court.

14. The applicant shall not induce, threat or promise to any witnesses who are acquainted with the facts of the case.

15. Application is disposed of.

(Urmila Joshi-Phalke, J.)